

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RAFAEL GARCIA,
Petitioner,

v.

MICHAEL CLARK,
THE DISTRICT ATTORNEY OF THE
COUNTY OF PHILADELPHIA, and
THE ATTORNEY GENERAL OF THE
STATE OF PENNSYLVANIA,
Respondents.

CIVIL ACTION

NO. 16-5743

ORDER

AND NOW, this 10th day of October, 2017, upon consideration of Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus filed by *pro se* petitioner, Rafael Garcia (Document No. 1, filed November 3, 2016), Petitioner's Request for an Evidentiary Hearing (Document No. 20, filed August 3, 2017), the record in this case, and the Report and Recommendation of United States Magistrate Judge Marilyn Heffley dated August 30, 2017, no objections having been filed, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Marilyn Heffley dated August 30, 2017, is **APPROVED** and **ADOPTED**;
2. The Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus filed by *pro se* petitioner, Rafael Garcia, is **DENIED** for the reasons stated in the Report and Recommendation of United States Magistrate Judge Marilyn Heffley dated August 30, 2017;
3. Petitioner's Request for an Evidentiary Hearing filed by *pro se* petitioner, Rafael Garcia, is **DENIED**; and,

4. A certificate of appealability will not issue because reasonable jurists would not debate this Court's decision that the Petition does not state a valid claim of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

BY THE COURT:

/s/ Hon. Jan E. DuBois

DuBOIS, JAN E., J.